

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

HERMELINDO OLEA, CDCR #AA-5972,  
Plaintiff,  
v.  
SAN DIEGO COUNTY SHERIFF, et al.,  
Defendants.

Case No. 09cv2439-LAB (BLM)

**ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL**

[Doc. No. 14]

On July 21, 2010, Plaintiff, a state prisoner proceeding *pro se*, moved this Court to appoint counsel. ECF No. 14. In support of his motion, Plaintiff states that he "[doesn't] know the law in order to respond by way of documents." *Id.* For the following reasons, Plaintiff's motion is **DENIED**.

The Constitution provides no right to appointment of counsel in a civil case unless an indigent litigant may lose his physical liberty if he loses the litigation. Lassiter v. Dep't of Soc. Servs., 452 U.S. 18, 25 (1981). However, under 28 U.S.C. § 1915(e)(1), courts are granted discretion to appoint counsel for indigent persons under "exceptional circumstances." Agyeman v. Corr. Corp. of Am., 390 F.3d 1101, 1103 (9th Cir. 2004). A finding of exceptional circumstances demands at least "an evaluation of the likelihood of the plaintiff's success on the merits and an evaluation of the plaintiff's ability to articulate his claims 'in light of the complexity of the legal issues involved.'" *Id.* (quoting Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986)).

1 Thus far, Plaintiff has drafted and submitted numerous pleadings and motions without the  
2 assistance of counsel. In addition to the instant motion, he has submitted a complaint (ECF No.  
3 1), a motion to proceed *in forma pauperis* (ECF No. 2), a first amended complaint (ECF No. 8),  
4 and a motion for extension of time to file a second amended complaint (ECF No. 11).

5 From the Court's review of these documents, it is apparent that Plaintiff is able to  
6 articulate the claims of his case. Further, Plaintiff does not demonstrate a likelihood of success  
7 on the merits such that his case should be classified as an "exceptional circumstance[]." Agyeman, 390 F.3d at 1103; see also Wilborn, 789 F.2d at 1331. Because Plaintiff has not  
8 alleged the requisite "exceptional circumstances" at this time, the Court therefore **DENIES**  
9 without prejudice Plaintiff's request for appointment of counsel.  
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11 **IT IS SO ORDERED.**

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13 DATED: July 28, 2010

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15 BARBARA L. MAJOR  
16 United States Magistrate Judge  
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